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C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 001535

SIPDIS

LIMA FOR WILL SMITH

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SUBJECT: HELEN MACK'S TAKE ON JUSTICE, POLITICS, AND CICIACS

REF: GUATEMALA 1191

Classified By: Human Rights Officer Katharine Read, reasons 1.5 (b & d)

¶11. (C) Summary: On June 13, Helen Mack had breakfast at the residence with the Ambassador and Human Rights Officer to discuss the Supreme Court appeal in her case set for June 19, the latest political alliance between Oscar Berger and Eduardo Stein, the mixed commission to investigate clandestine groups (CICIACS), and other reform-minded proposals. End Summary.

Mack Appeal Hits Supreme Court

¶12. (C) Helen Mack informed us that on June 19 the Supreme Court will hear her appeal of the Fourth Appeals Court's May 7, 2003, decision to annul the October 3, 2002 conviction of Juan Valencia Osorio for ordering the murder of Helen's sister Myrna Mack (reftel). The Ambassador asked Mack if she would like him to attend the appeal, and she answered that she always appreciates his presence and support. The Ambassador promised to attend the oral appeal on June 19, and to rally the international community's support by calling his Ambassadorial-level colleagues. (Initial results of these calls indicate we can get a good turnout.)

¶13. (C) Mack told the Ambassador that ret. General Rios Montt told her directly that her case would not result in a conviction, but that the Gerardi murder case would, ultimately. Mack opined that this was because her sister's murder was part of the GOG's counterinsurgency policies during the internal conflict, while Bishop Gerardi was allegedly murdered by renegade Presidential Military Staff (EMP) officers in 1998, after the signature of the Peace Accords. Comment: It seems strange that Rios Montt would speak so boldly about outcomes that imply FRG/Army influence, but Mack says he did.

Political Shuffling

¶14. (C) Mack told the Ambassador that she favored the incorporation of Eduardo Stein into the Alianza GANA with Presidential hopeful Oscar Berger. She also said that the presence of retired General Otto Perez Molina in a Berger government might be an important inside ally in the cleansing of corrupt GOG institutions and clandestine structures.

CICIACS

¶15. (C) Mack said that Peruvian prosecutor Jose Ugaz, who visited here in May, offered three thoughts as to what's needed to make the CICIACS successful: political buy-in; able investigators and sources; and adequate anticorruption laws on which to base investigations and prosecutions. The human rights NGOs have pitched the idea to many of the opposition parties effectively, and believe that they will be able to obtain political support from the new GOG. The technical team from the UN is slated to come to Guatemala in late June or early July, and the NGOs hope that they will recommend able experts.

¶16. (C) Mack said Ugaz recommended that the Guatemalans should look at the new Peruvian anticorruption laws as potential models for the laws that would be necessary to support the CICIACS. The Ambassador pledged to coordinate with Embassy Lima to obtain the legal texts and share them with the human rights community. (See Hamilton email to WSmith.)

Other Reforms

¶17. (C) Concerned with what she believes is Attorney General De Leon's corruption, Mack said the human rights community is considering mounting a case against him. She said that in the case of De Leon, Guatemala is responsible for "prosecuting the prosecutor." In a separate project, Mack also wants to work with the National Endowment for Democracy (NED) to study how to incorporate reforms into the long-term planning of judicial institutions and how to create oversight mechanisms that can monitor the budgets of the Public Ministry, Police, and Courts.

Comment

18. (C) We continue to believe that showing public support for justice in the Mack case is crucial to the respect of human rights in Guatemala, and the Ambassador will attend the June 19 hearing. We also believe Mack's proposal for establishing mechanisms to monitor implementation of the judicial sector budget could represent a major advance in promoting judicial integrity. We will look for additional ways to assist local NGO's and the GOG in getting CICIACS up and running.

HAMILTON